

2/23/09 (7)

**Christine Joyce**

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**From:** Roland Bartl  
**Sent:** Wednesday, February 18, 2009 2:47 PM  
**To:** John Murray; Steve Ledoux  
**Cc:** Manager Department; Planning Department; Scott Mutch; Frank Ramsbottom; Frank Widmayer; Robert Craig; Stephen Anderson  
**Subject:** Proposed General Bylaw amendments (boarding vacant buildings with Lexan and housekeeping)

The Planning Board at the hearing yesterday decided that regulating the boarding up of vacant buildings is more appropriately handled in the Town's General Bylaw rather than in the Zoning Bylaw.

The attached memo covers this and adds a draft general bylaw amendment replacing the previously proposed zoning amendment.

I also found a small error that needs a housekeeping correction.

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2/20/2009



Planning Department

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**MEMORANDUM**

**To:** John Murray, Asst. Town Manager **Date:** February 18, 2009

**From:** Roland Bartl, AICP, Planning Director *R. B.*

**Subject:** Bylaw for Boarding up Vacant Buildings

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Yesterday evening the Planning Board held its public hearing on proposed zoning amendments. The draft "housekeeping article" contained a proposed section requiring Lexan or equivalent materials (rather than plywood) be used when boarding up vacant buildings.

At the hearing the Board discussed the pros and cons of the proposal as they relate to potential blight and public safety, and noted the lingering possibility of a conflict with the State Building Code.

**Recommendation:**

The Planning Board voted to not recommend this as a zoning amendment. The Board determined that the Town's General Bylaws were a more appropriate place for such a regulation.

For the event that the Board of Selectmen want to place this on the Town Meeting warrant for a general bylaw addition, I have attached a draft article to accomplish it. It would add a new section E57 (I could not find a convenient existing section to slip it under), and insert under Non-Criminal Disposition (E45) a new paragraph naming the Chiefs and the Building Commissioner as enforcing persons and setting a fine of \$300 per day (copied from zoning). I am not sure about the fine – unless someone knows for sure we will need to check with Counsel.

**Also – Housekeeping Correction, General Bylaws:**

During my review of the General Bylaws I noted a mismatch between it and the Zoning Bylaw. The body of the zoning bylaw sets a fine of \$300 per day with each day a separate offense. The General Bylaw, in section E45 sets the fine for Chapter M – Zoning Bylaw at \$25. This discrepancy may have existed for decades. I did not catch it last year when we switched enforcement from the BC to the ZEO. Attached is a housekeeping article to fix it.

Cc: Steve Ledoux  
Robert Craig  
Frank Widmeyer  
Frank Ramsbottom  
Scott Mutch  
Stephen Anderson

To see if the Town will vote to amend the Chapter E of the General Bylaws of the Town by adding a new Section E57 as follows:

**E57. Boarding Up of Vacant Buildings**

Except where otherwise required under the Massachusetts State Building Code or in cases where the Fire Chief or Police Chief for public safety reasons order the use of other materials, a vacant BUILDING whose windows and doors are to be “boarded up” against illegal entry, vandalism, or loitering shall be “boarded up” with clear high-impact Lexan 9034 or equivalent impact resistant, transparent material in a manner that minimizes the appearance that the BUILDING is vacant.

And

Insert in section E45 (Non-Criminal Disposition) the following new 15<sup>th</sup> paragraph:

“Chapter E – Section E57 – Boarding up of Vacant Buildings; enforcing persons: Building Commissioner; Chief of Police; Fire Chief. – Fine \$300 for each offense, with each day that a violation continues constituting a separate offense.”

, or take any other action relative thereto.

**SUMMARY**

The boarding up of vacant buildings is generally intended to protect the buildings and any assets within them. Some owners with vacant buildings board them board up on their own, others do it because their insurance requires it. During this economic downturn Acton has so far experienced relatively few instances of vacated and boarded up buildings. Where it has happened, the boarding up with traditional plywood widely signaled a vacant building. This created a potential attractive nuisance, and sent a message of decline, neglect, and blight. This addition to the General Bylaw requires less obvious materials for boarding up buildings such as Plexiglas or Lexan.

Direct inquiries to: Roland Bartl, Planning Director – (978) 264-9636  
Selectman assigned: \_\_\_\_\_ – E-mail: bos@acton-ma.gov

**Board of Selectmen:**  
**Finance Committee:**

**DRAFT ARTICLE \_\_\_\_**  
(Majority vote)

**GENERAL BYLAWS - HOUSEKEEPING**

To see if the Town will vote to amend Chapter E of the General Bylaws of the Town by deleting the 18<sup>th</sup> paragraph of Chapter E, Section E45 (Non-Criminal Disposition) and replace it with a new 18<sup>th</sup> paragraph as follows:

“Chapter M – Zoning Bylaw; enforcing persons: Zoning Enforcement Officer. Fine: \$300 for each offense. Each that a violation continues shall constitute a separate offense.”

, or take any other action relative thereto.

**SUMMARY**

This housekeeping amendment of the General Bylaws corrects the reference for fines for zoning violations. Currently, the 18<sup>th</sup> paragraph in Chapter E, Section E45 sets a fine for zoning violations at \$25. However, within the body of the Acton Zoning Bylaw, Section 11.1.2, a zoning violation is “... punishable by a fine of \$300.00 for each offense. Each day that such a violation continues shall constitute a separate offense.” The Town’s enforcement practice relies on Section 11.1.2 of the Zoning Bylaw. This corrects the current discrepancy.

Direct inquiries to: Roland Bartl, Planning Director – (978) 264-9636

Selectman assigned: \_\_\_\_\_ – E-mail: [bos@acton-ma.gov](mailto:bos@acton-ma.gov)

**Board of Selectmen:**

**Finance Committee:**